THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21141 of 2000

Dated: 14.11.2007

Between

J.Sri Lakshmi

...Petitioner

and

1.The Chairman, AP Social Welfare Residential Educational Institutions Society, Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.21141 of 2000

ORDER:

This writ petition is filed seeking a certiorari to call for records relating to the proceedings dated 28.9.2000 of the 1st respondent confirming orders of the 2nd respondent dated 26.4.2000 imposing punishment of stoppage of two annual increments with cumulative effect and to quash the same as arbitrary and illegal.

It appears that the petitioner while working as Deputy Warden of Hostel, maintained by AP Social Welfare Educational Institutions, at Posanipalli, was charged with an allegation that she was negligent in closing the doors of the hostel before leaving the hostel and wantonly kept one door of the

hostel open to have wrongful gain. It was her duty to properly close the hostel at night. Further, it was also quite unreasonable on the part of the Deputy Warden to get the gunny bag brought outside at midnight which had given doubt as to whether the bags were kept outside initially by the warden in collusion with watchman to have wrongful gain which amounts to misconduct etc.,

The petitioner submitted a detailed explanation for the same. However, the Enquiry Officer held that she is guilty of the charges. The disciplinary authority passed final orders dated 26.4.2000 holding that the petitioner was guilty of the charges framed and imposed punishment of stoppage of two annual increments with cumulative effect. Aggrieved by the same, the petitioner carried the matter in appeal before

1st respondent. The 1st respondent on thorough examination of the facts and circumstances of the case, rejected the appeal

filed by the petitioner by an order dated 28.9.2000 since it does not warrant any interference by it. Aggrieved thereby, the present writ petition is filed.

Learned counsel for the petitioner, strenuously contended that, firstly the charges are vague and even assuming that there is any such charge proved, the punishment of stoppage of two increments, with cumulative effect, is disproportionate, to that of the misconduct alleged; whereas, learned counsel for the respondents supported the order passed by the respondents and submitted that the respondents themselves have taken a lenient view of the matter and imposed a punishment of stoppage of two annual increments with cumulative effect. Therefore, no ground is made out calling for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the

impugned order and other material made available on record.

At the out set it may be necessary to notice the charges framed against the petitioner which read as under:

> "Being a responsible Deputy Warden she should close the doors of the hostel before leaving the hostel. But she wantonly kept one door of the hostel open to gain something. It is her responsibility of the proper closure of the hostel at night.
>
> When the night watchman approached her in the mid night, stating that the door of the hostel found open, and found a small as gunny bag as the dogs are barking at that side. He particularly went that side and noticed the door is found open. The Deputy Warden in her letter stated that she has given the keys of the hostel to the watchman with instructions to bolt the door and bring the gunny bag to show the same to the Principal. Being responsible Dy.Warden she would have followed the night watchman and get the door bolted properly. She failed to inform

the presence of gunny bag to the principal and instead of this, she has instructed the watchman to bring the gunny bag containing provisions.

It is also quite unreasonable on the part of Deputy Warden to get the gunny bag brought outside at the midnight which given to doubt whether the bags are kept outside initially by the warden which is a result of excess stock, in collusion with watchman to gain something which amounts to misconduct."

The charges as noticed above, as submitted by the learned counsel for the petitioner, are as vague as they could be. They are all based on the circumstances of the incident that occurred in the night when the petitioner purported to have kept the hostel gate open. However, the respondents have conducted an enquiry and examined certain witnesses and held that the enquiry conducted by the District Revenue Officer, Eluru reveals that the theft had occurred on 5.12.1998 as engineered and preplanned by both the Deputy Warden(PET) and

also the night watchman. But the basis for such finding and circumstantial and hearsay evidence. However, it does not warrant interference of this Court with the order passed by the disciplinary authority. Further, it may not be proper to hold that the enquiry was not properly conducted and there was no evidence to prove the charges framed against the petitioner. The sum and substances of the charge is negligence of duty. The connivance and other aspects were not at all made out. However, in the facts and circumstances of the case, I am of the opinion that withholding of two annual increments with cumulative effect is shockingly disproportionate to that of the misconduct alleged against the petitioner.

Under these circumstances, instead of remanding the matter for reconsideration by the disciplinary authority for deciding as to proper punishment, I deem it appropriate to give a quietus to this litigation here itself. Therefore to meet the ends of justice, the punishment of two annual grade increments with cumulative is modified and it shall

be read as stoppage of two annual increments without cumulative effect. However, the petitioner is not entitled for any monetary benefits accruing in view of modification of the order till

31st December, 2007. The notional increments etc., shall be given effect to only with effect from 1st January 2008.

The writ petition is accordingly allowed to the extent indicated above.

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14-11-2007

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